

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE LITIGATION

MDL No. 1456

THIS DOCUMENT RELATES TO:

ALL ACTIONS

CIVIL ACTION: 01-CV-12257-PBS

Judge Patti B. Saris

**PLAINTIFFS' REPLY IN SUPPORT OF MOTION TO MODIFY THE PRETRIAL
ORDER OF AUGUST 21, 2006**

The Plaintiffs seek, with respect to disclosure of witness testimony, the exact same rules for both sides.

Defendants will have Plaintiffs' trial testimony all on one day (with one exception) and can thus respond to a complete picture.

Plaintiffs propose that defendants disclose testimony on November 10, 2006 all at once. This would make disclosure equal and allow the same time to respond. With Plaintiffs' disclosure due October 27, 2006, defendants will have as long as three weeks of preparation time with some of Plaintiffs' witnesses, yet they offer in their response ten days for Plaintiffs and offer disclosures on a rolling basis. They also offer no firm date for their filings.

Simply put, the rules of disclosure should be applied evenly.

DATED: October 25, 2006.

Respectfully submitted,

By /s/ Steve W. Berman

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CERTIFICATE OF SERVICE BY LEXISNEXIS FILE & SERVE

Docket No. MDL 1456

I, Steve W. Berman, hereby certify that I am one of plaintiffs' attorneys and that, on October 25, 2006, I caused copies of **PLAINTIFFS' REPLY IN SUPPORT OF MOTION TO MODIFY THE PRETRIAL ORDER OF AUGUST 21, 2006** to be served on all counsel of record by causing same to be posted electronically via Lexis-Nexis File.

/s/ Steve W. Berman

Steve W. Berman